

**Judge Berman**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**05 CV 2130**

ROSE MORGAN, on behalf of herself  
and all others similarly situated,

Plaintiff,

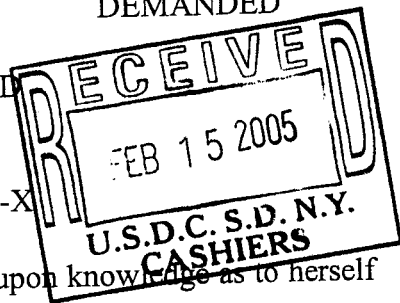
CLASS ACTION  
COMPLAINT

-against-

JURY TRIAL  
DEMANDED

RECEIVABLES MANAGEMENT SOLUTIONS, INCORPORATED

Defendant.



Plaintiff, by and through her undersigned attorneys, alleges upon knowledge as to herself and her own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action on her own behalf and on behalf of all others similarly situated for damages and declaratory and injunctive relief arising from the defendant's violation of §1692 et. seq. of Title 15 of the United States Code, the Fair Debt Collections Practices Act (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692.

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2).

PARTIES

4. Plaintiff Rose Morgan (hereinafter "Morgan") is a resident of the State of New York, Bronx County. On or about January 6, 2005, plaintiff Morgan received and came into contact with a form debt collection notice from defendant's at plaintiff's address. Exhibit A.

5. Defendant Receivables Management Solutions, Incorporated (hereinafter "RMS") is a Minnesota Corporation engaged in the business of collecting debts with its principal place of business located in West St. Paul, Minnesota. The principal purpose of defendant RMS is the collection of debts using the mails and telephone, and the defendant regularly attempts to collect debts alleged to be due another.

CLASS ACTION ALLEGATIONS

6. Plaintiff brings this action as a nationwide class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure (hereinafter "FRCP"), on behalf of herself and all consumers who have received debt collection notices and/or letters from the defendant which contain one or more of the violations complained of herein contained in paragraphs numbered 18-20, and its successors in interest (the "Class"). Excluded from the Class is the defendant herein, and any person, firm, trust, corporation, or other entity related to or affiliated with the defendant, including, without limitation, persons who are officers, directors, employees, associates or partners of RMS.

7. This action is properly maintained as a class action. This Class satisfies all the requirements of Rule 23 for maintaining a class action.

8. The Class is so numerous that joinder of all members is impracticable. Upon information and belief, thousands of persons have received debt collection notices from the defendant which violate various provisions of the FDCPA.

9. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:

- a. Whether the defendant violated 15 U.S.C. § 1692e(10) by stating that MBIA was the Original Creditor.
- b. Whether the defendant violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692g(a)(2).
- c. Whether plaintiff and the Class have been injured by the defendant's conduct;
- d. Whether plaintiff and the Class have sustained damages and are entitled to restitution as a result of defendant's wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and
- e. Whether plaintiff and the Class are entitled to declaratory and/or injunctive relief.

10. Plaintiff's claims are typical of the claims of the Class, and plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

11. Plaintiff will fairly and adequately protect the interests of the Class and has retained experienced counsel, competent in the prosecution of class action litigation.

12. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.

13. A class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. Class treatment also will permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a class action the Class members will continue to suffer losses of statutorily protected rights as well as monetary damages and if defendant's conduct will proceed without remedy it will continue to reap and retain the proceeds of its ill-gotten gains.

14. The class consists of all consumers within the United States of America who received a collection letter which identified the Original Creditor and current creditor as MBIA.

15. Defendant has acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

STATEMENT OF FACTS

16. On or about January 6, 2005, defendant mailed a letter addressed to plaintiff at plaintiff's address. Upon receipt of defendant's letter, plaintiff opened and read it. The letter demanded payment of a consumer debt. A copy of said letter is annexed hereto as Exhibit A.

FIRST CAUSE OF ACTION

17. Each of the above allegations is incorporated herein.

18. The letter violated the FDCPA by falsely stating the Original Creditor was MBIA in violation of 15 U.S.C. § 1692e(10).

19. The letter violated numerous provisions of the FDCPA by failing to send the consumer a written notice containing the name of the creditor to whom the debt is owed as required by 15 U.S.C. § 1692g(a)(2).

20. As a result of defendant's abusive, deceptive and unfair debt collection practices, plaintiff has been damaged.

**WHEREFORE**, plaintiff respectfully requests that the Court enter judgment as follows:

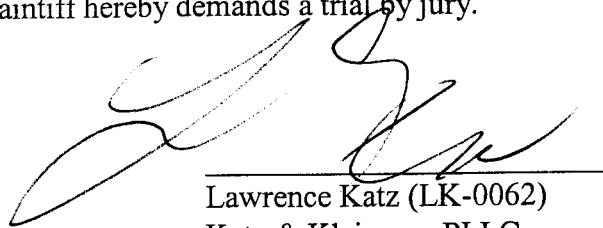
- a) Declaring that this action is properly maintainable as a class action and certifying plaintiff as Class representative;
- b) Awarding plaintiff statutory damages;
- c) Awarding class members the maximum statutory damages;

- d) Awarding plaintiff costs of this action, including reasonable attorneys' fees and expenses; and
- e) Awarding plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the FRCP, plaintiff hereby demands a trial by jury.

Dated: February 10, 2005  
Uniondale, New York



Lawrence Katz (LK-0062)  
Katz & Kleinman PLLC  
626 EAB Plaza  
Uniondale, New York 11556-0626  
Telephone (516) 522-2621  
Facsimile (516) 522-2890

**EXHIBIT A**

January 6, 2005



## Receivables Management Solutions

260 E. Wentworth Ave. • West St. Paul, MN 55118  
(651) 457-1130 • Fax (651) 457-3827 • 1-800-299-8301



ROSE MORGAN  
753 ADEE AVE  
BRONX NY 10467-8428

RMS Placement Date: 01/05/2005  
RMS account #: 3255925  
Total Due: \$747.38  
Social Security Number: 074-76-8942  
Client: MBIA  
Original Creditor: MBIA  
Account #: 577091422274815

Dear ROSE MORGAN

MBIA has purchased the above referenced account from the above referenced Original Creditor. MBIA has placed your account with this agency for collection. MBIA has advised RMS that interest will continue to accrue as provided for in your agreement with the original credit grantor.

MBTA authorized Receivables Management Solutions, Inc. to settle the above referenced account for \$560.53 if payment is received in our office by 2-10-2005. If you have any questions or wish to discuss your account with one of our representatives, please call us.

RMS offers check by phone service, or you can use Western Union's 'Quick Collect' and Visa/MasterCard services to assure your settlement is received prior to the expiration date shown above. You may contact our office for assistance.

You may contact our office by calling toll free 1-800-299-8301. Please refer to your RMS account # 3255925. Office hours are Monday through Thursday 7am to 9pm, Friday 7am to 7pm and Saturday 7am to 12pm Central time zone.

Sincerely,  
Receivables Management Solutions, Inc.  
This collection

This collection agency is licensed by the Minnesota Department of Commerce.

**\*\*\* IMPORTANT NOTICE \*\*\***

**\*\*\* IMPORTANT NOTICE \*\*\***

Pursuant to provisions in the Federal Fair Debt Collection Practices Act, unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, that you dispute the validity of this debt or any portion thereof, this office will: Obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. Also, if you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor if different from the current creditor. This letter is written for debt collection purposes and any information obtained will be used solely for that purpose.

This collection agency is licensed in New York City: license number 160987

This collection agency is licensed in New York City, license number 0978673.

\*\*\* Detach bottom portion and return with payment \*\*\*

260 E. Wentworth Ave.  
W. St. Paul, MN 55118-3525

RMS account #: 3255925  
Total Due: \$747.38  
Social Security Number: 074-76-8942  
Client: MBIA  
Original Creditor: MBIA  
Account #: 5770914222274815



ROSE MORGAN  
753 ADEE AVE  
BRONX NY 10467-8428

RMS  
260 E. Wentworth Ave.  
W. St. Paul, MN 55118-3525  
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